

market (in the Commission's words, "the most vital market for shaping world competition"^{45/}) to the advantage of the largest U.S. international carriers. Indeed, AT&T supports this exemption, arguing that imposition of "an effective market access showing in these circumstances would hamper efforts by U.S. carriers to inject" themselves into foreign markets.^{46/}

Such apparent one-sided treatment can only exacerbate the risk of a negative response from foreign governments and diminish the odds of the Commission's proposals having the desired effect of opening their markets. The Commission's proposal to distinguish carriers based solely on country of incorporation appears arbitrary and capricious and may raise concerns under international trade law.

D. Any Reciprocal Market Access Test Should Apply to All Business Arrangements that Give Rise to A Risk of Discrimination

If the Commission decides to adopt either the proposed effective market access test or another form of reciprocal entry standard, it must extend the scope of application of any such test to non-equity co-marketing arrangements, international joint ventures, and other global alliances where the business relationships entered into by the partners create incentives to discriminate against carriers outside the alliance. Such

^{45/} NPRM at para. 20.

^{46/} Comments of AT&T at 19.

alliances include AT&T's WorldPartners and Unisource ventures. On few issues is there as wide agreement among commenters.^{47/}

Regardless of whether they provide for exclusivity of interconnection, such alliances provide both the incentive and the ability to the partners to discriminate against non-allied carriers. As AT&T's states in another context, AT&T's global alliance affiliates can injure unaffiliated U.S. carriers "in ways which are limited only by their imaginations."^{48/} To exempt such alliances from Commission scrutiny, whether under the existing public interest standard or the revised standard proposed in the Notice, would invite AT&T and its partners to use their imaginations. It also would distort the market by creating purely regulatory advantages for carriers that form non-equity alliances, by allowing them to avoid the investment uncertainty caused by application of the Commission's protracted entry test.^{49/} This, in turn, will favor AT&T, which, almost alone,

^{47/} See Comments of Citicorp at 3 (Joint ventures and nonexclusive co-marketing arrangements "provide U.S. carriers with an incentive to discriminate in favor of their foreign partners"); Comments of Sprint at 5-6 ("Incentives for collusion and discrimination may also result from other types of alliance, such as international partnerships and joint ventures, particularly if such alliances and joint ventures are with a dominant U.S. carrier"); Comments of France Télécom at ii; Comments of BT-NA at 14; Comments of MCI at 13-15; Comments of ACC Global Corp., filed April 11, 1995, at 6-7; Comments of LDDS at 7; Comments of TLD at iii.

^{48/} Comments of AT&T at 10.

^{49/} See Comments of Citicorp at 3 (by "limiting" application of the effective market access test to equity relationships, "the Commission will promote the formation of joint ventures and nonexclusive co-marketing arrangements").

does not need equity investment from foreign partners to further its global ambitions.^{50/}

E. Regardless of Any Other Action Taken in this Proceeding, the Commission Should Adopt a Timetable for Processing Section 214 Applications

In the Notice, the Commission identified the "uncertainty" caused by the current international Section 214 application process as a key problem. The uncertainty, as Teleglobe noted in its Comments, is due primarily to the length of the process, rather than the case-by-case review of Section 214 applications. Moreover, as discussed in Section II, the proposals in the Notice, if adopted, would necessarily require even more extensive and elaborate case-by-case review of such applications by several agencies in addition to the Commission. Thus, the process, already too long, risks becoming even more drawn out. Teleglobe reiterates its recommendation that the Commission, regardless of whether it adopts the proposals in the Notice, modify its rules implementing Section 214 to require that a final decision on an application be rendered within a fixed and reasonable time frame.

IV. Conclusion


For the foregoing reasons, Teleglobe respectfully submits that the addition of the proposed effective market access test to the Section 214 public interest standard for reviewing foreign carrier applications to enter the U.S. market will not further

^{50/} See Comments of LDDS at 2.

the Commission's goals in this proceeding. Should the Commission nonetheless decide to adopt an entry standard based on the principle of reciprocal or equivalent access, Teleglobe urges the Commission to adopt a standard that is consistent with existing U.S. trade law concerning telecommunications trade -- a standard of "mutually advantageous market opportunities." Teleglobe also requests that the Commission apply such a standard in a consistent manner, as described in these reply comments.

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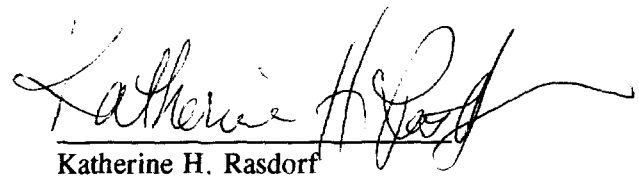
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